

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 24350 of 2000

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Dated: 04.08.2005

Between:

- 1 NITCO Roadways Limited, Registered Office,
Rep. by its Managing Director, Kunil Bhalla,
Nitco House, Jammu, and others.

..... PETITIONERS

AND

- 1 The Station House Officer, Punjaguta Police Station,
Punjagutta, Hyderabad, and another.

.....RESPONDENTS

ORDER:

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The second respondent is the Proprietor of M/s.Rafeeq Transport Service. The petitioners herein entrusted certain goods to the second respondent for transporting to Chennai. When the goods vehicle reached Chennai on 05.04.1999 some of the goods were found missing from the truck. The second respondent was compelled to pay a sum of Rs.44,300/- to the petitioners. Subsequently, the second respondent lodged a complaint on 14.03.2000 before the Court of the XXIII Metropolitan Magistrate, Hyderabad, under Sections 34, 340, 347 and 348 of the Indian Penal Code, 1860 (I.P.C). In his complaint the second respondent alleged that on 07.04.1999 the petitioners lodged F.I.R with P.S.Madhavaram Police Station, Chennai and not satisfied with the same, the petitioners illegally detained the driver of the truck, Sri.Gulam Moiuddin @ Babar, for more than 24 hours. He also alleged that after detaining the driver, the petitioners extracted a sum of Rs.44,300/- and therefore, all of them committed offences under Sections 34, 340, 347 and 348 of I.P.C. When the said complaint was endorsed under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C), the P.S.Panjagutta registered Crime No.198 of 2000 under the said I.P.C provisions. In this writ petition, the petitioners seek to quash the said crime.

The learned counsel for the petitioners, Sri.S.V.Ramana, raised two grounds. He would submit that when the alleged detention of the driver took place on 07.04.1999, the complaint was lodged on 14.03.2000 after the petitioners filed the case under

Section 138 of the Negotiable Instruments Act, 1881, as amended by Bank's Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, against the second respondent as a result of dishonouring of cheque for Rs.44,300/-. Secondly, he would urge that the complaint is an after thought and false.

It is now well settled that on a mere ground that F.I.R was lodged with delay, a crime cannot be quashed in exercise of power under Article 226 of the Constitution of India on the ground that F.I.R is belated (see **Harnam Singh v. Everest Construction Co.**). Secondly, a reading of the complaint lodged by the second respondent before the Criminal Court would show that there is an allegation of illegal detention of Gulam Moiuddin, the driver of truck, by the petitioners. That would be sufficient to attract Sections 340 and 347 of I.P.C, especially when it is alleged that the petitioners released the driver of the truck after extorting Rs.44,300/- which he paid to them by way of a cheque drawn on A.P.Mahesh Cooperative Bank, Hyderabad. Whether these allegations are false or not, is the core issue in a criminal trial and cannot be a basis for quashing the F.I.R.

The first respondent is therefore directed to investigate Crime No.198 of 2000 and file a charge sheet immediately, if not already filed.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

04.08.2005

vs